

### **REMARKS**

Claims 1, 3, 4, 6-14, 16-22, 24-36 and 41-49 are pending in the application. Claims 1, 3, 4, 6-14, 16-22, 24-36 and 41-49 stand rejected. Claims 1, 13, 17, 21, 26, 31, 34, 41, and 45 have been amended. No new matter has been introduced into the application. As explained in more detail below, Applicants submit that all claims are in condition for allowance and respectfully request such action.

### **Claim Rejections – 35 USC § 103**

Claims 1, 3, 4, 6-14, 16-22, 24-36, and 41-49 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 6,269,285 to Mignault (“Mignault”) in view of U.S. Publication No. 2005/0279722 to Ali (“Ali”).

As discussed in detail in the Response to the March 9, 2009 Office Action, Applicant submits that Ali is improper prior art for the portion relied on. However, in order to further prosecution of the instant case, Applicant has amended the claims as discussed below.

Amended claim 1 recites, among other features, “a sensor assembly configured to detect the position of the pusher assembly by scanning the indicia strip and determining a code based on the pattern of bits scanned, the sensor assembly positioned on a pusher.” The combination of Mignault in view of Ali fail to teach or suggest a sensor assembly positioned on a pusher. Mignault discloses storage bins having multiple position sensors (84, 86, 88, 90, 92, 94, 96, 98) *on the wall of the storage bins* and a permanent magnet 102 positioned on a stack plate 82 within the bins. *See* col. 5, ll. 56-62. Mignault fails to teach or suggest a sensor being located on a *pusher*, as recited in amended claim 1. Ali fails to cure the deficiencies of Mignault with respect to claim 1. Ali discloses a position detector 38, which is mounted to a monitor 24. *See* para. [0078]. Ali fails to teach or suggest a sensor being located on a *pusher*, as recited in amended claim 1. Accordingly, claim 1 is allowable over Mignault in view of Ali for at least these reasons.

Amended independent claims 13, 21, 41, and 45 contain similar features as those in independent claim 1. Therefore, claims 13, 21, 41, and 45 are all allowable over Mignault in view of Ali for at least the reasons discussed with respect to claim 1. Claims 3-4 and 6-12, 14-

16, 22 and 24-25, 42-22, and 46-47 all depend directly or indirectly from their base claims 1, 13, 21, 41, and 45, respectively, and are allowable over Mignault in view of Ali for at least the reasons as their ultimate base claim.

Amended claim 17 recites, among other features, “an indicia strip mounted on a coiled spring on the pusher assembly.” The combination of Mignault and Ali fail to teach or suggest this feature. The Final Office Action concedes that Mignault differs from the claimed invention because Mignault does not show an indicia strip containing a pattern of bits. *See* page 3. The Final Office Action relies on Ali to teach the claimed indicia strip. Specifically, the Final Office Action points to the encoder strip 40 of Ali to show the claimed indicia strip. Ali discloses the encoder strip 40 being a portion of a continuous loop encoder 30, which is fixed to paddle 26 and rotates counter-clockwise and clockwise as the paddle 26 moves back and forth. *See* paras. [0077]-[0078]. Notably, Ali fails to teach or suggest the encoder strip being mounted on a coiled spring on the pusher assembly. Accordingly, Ali fails to teach or suggest an indicia strip mounted on a coiled spring on the pusher assembly, as recited in claim 17. Therefore, claim 17 is allowable over Mignault in view of Ali for at least these reasons.

Independent claims 26, 31, 34, and 48 contain similar features to claim 17. Thus, claims 26, 31, 34, and 48 are allowable over Mignault in view of Ali for at least the reasons discussed with respect to claim 17. Claims 18-20, 27-30, 32-33, and 35-36 depend from independent claims 17, 26, 31, and 34 respectively, and are allowable over Mignault in view of Ali for at least the reasons as their base claim.

Applicant respectfully requests withdrawal of this rejection.

**CONCLUSION**

The Applicants respectfully request consideration of the application and allowance of all pending claims. Please feel free to contact the undersigned should any questions arise with respect to this case that may be addressed by telephone.

Respectfully submitted,  
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